

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
National Exchange Carrier Association	)	WC Docket No. 04-259
Petition to Amend Section 69.104 of the	)	RM-10603
Commission's Rules	)	

**REPLY COMMENTS  
OF THE  
NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.**

NECA's comments in this proceeding demonstrated that the Commission's rules should be modified to require rural local exchange carriers (LECs) to assess no more than five subscriber line charges (SLCs) for derived channel T-1 services. However, should the Commission decide to defer further action with respect to these rules pending reform of larger intercarrier compensation issues, it should maintain the *status quo* until such time that further action is taken.<sup>1</sup>

Loop cost and architecture issues are not in dispute. The Commission noted in its *Order* that "The evidence in this proceeding suggests that, for rate-of-return carriers, loops used to provide derived channel T-1 service and to provide PRI ISDN service are provisioned in a comparable manner and therefore should have comparable costs."<sup>2</sup>

NECA showed in its Comments that derived channel T-1 services are in fact provided in

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<sup>1</sup> National Exchange Carrier Association Petition to Amend Section 69.104 of the Commission's Rules, WC Docket No. 04-259, RM-10603, Order Granting Petition For Rulemaking, Notice Of Proposed Rulemaking, And Order Granting Interim Partial Waiver, 19 FCC Rcd 13,591 (2004) (*Order* or *NPRM*), ¶ 39.

<sup>2</sup> *Order*, ¶ 41.

virtually the same manner as PRI-ISDN, and that the costs of providing the services are comparable.<sup>3</sup> As the Commission has observed,<sup>4</sup> no party suggests otherwise, and none has done so in response to the *NPRM*.<sup>5</sup>

Since the Commission has already determined that no more than five SLCs are necessary to recover the costs of providing PRI-ISDN service, it follows that no more than five SLCs are necessary to recover the cost of providing derived channel T-1 service. Such a result advances the Commission's long-term goal of aligning rates with costs.<sup>6</sup>

The sole opposition to the proposed rule change is lodged by AT&T.<sup>7</sup> Its comments repeat arguments made in opposition to NECA's waiver request that a change in the rule would increase the size of the interstate common line support (ICLS) funding mechanism.<sup>8</sup> But the Commission has already weighed a variety of policy considerations, and rejected AT&T's contention in granting the waiver and initiating the rulemaking

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<sup>3</sup> Comments of NECA (Nov. 12, 2004) at 4-7, Attachment B2.

<sup>4</sup> *Order*, ¶ 41.

<sup>5</sup> *See* Comments of SBC (Nov. 12, 2004) at 6 (“SBC anticipates that the record will show that the costs for T-1 derived channel services are similar to the costs for PRI ISDN services, as these services have similar loop costs, use essentially the same plant facilities, and are similarly provisioned.”); Comments of Verizon (Nov. 12, 2004) at 6 (“Applying a fixed number of SLCs, such as five, to new T-1 derived channel services would be more consistent with the interstate common line costs of these services...” ) and at 5 (“Applying five SLCs to new T-1 derived channel services would more closely track the relationship between the common line costs of these services and the common line costs of analog voice services.”).

<sup>6</sup> *See Order*, ¶ 41.

<sup>7</sup> Comments of AT&T Corp. (Nov. 12, 2004).

<sup>8</sup> *Id.* at 5.

proceeding.<sup>9</sup> It described AT&T's claims as "bare"<sup>10</sup> and invited the carrier or other commenters to provide "further explanation as to why such an increase [in ICLS] violates the statute or our rules, is contrary to the goal of basing rates on costs, or is otherwise contrary to the public interest."<sup>11</sup>

AT&T offers no substantially new or different reason to suggest a deviation from the policies embraced by the Commission in its *Order*.<sup>12</sup> NECA demonstrated that the cost of derived channel T1 service, like that of PRI-ISDN service, is no more than five times the cost of a single POTS line. Current rules, which require application of up to 24 SLCs for derived channel T1 service but only 5 SLCs for comparable PRI-ISDN service, therefore assess a disproportionate burden on derived channel T-1 end users. Consequently, the current rules (absent the waiver) force users of derived channel T1 services to subsidize other services, supplanting residual cost recovery which, under current rules, should come from ICLS. By revising its rules, the Commission will end this inequitable burden on derived channel T-1 service end users.

AT&T also suggests that if the Commission changes the rule as proposed, it also should raise multi-line business SLC caps to permit recovery of these costs via increased

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<sup>9</sup> *NPRM*, ¶ 16.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> AT&T (at 5) makes passing reference to the quarterly universal service contribution factor, implying that it may rise with the proposed rule change. With an annual universal service funding requirement near \$7 billion, USAC, "Federal Universal Service Support Mechanisms Fund Size Projections for the First Quarter 2005," <http://www.universalservice.org/overview/filings/2005/Q1/1Q2005%20Demand%20110204%20FINAL.pdf>, the increase in ICLS associated with foregone SLC revenues would have a negligible effect on the contribution factor (the estimated ICLS increase would account for around 0.3% of the annual funding requirement).

SLC charges.<sup>13</sup> Quite apart from the fact that the Commission already determined that the burden on ICLS is insufficient to prevent recovery through that support mechanism, AT&T's proposal is a bad idea because it would aggravate existing disparities between rural and urban SLC rates for comparable services.

NECA has provided the Commission with sufficient data to enable the Commission to modify its rules in the manner sought. NECA acknowledges, nonetheless, that the Commission may wish to defer final action on rule revisions pending consideration of more global intercarrier compensation matters, as SBC suggests.<sup>14</sup> Therefore, should the Commission opt to consider these issues in the context of CC Docket 01-92,<sup>15</sup> it should keep the existing waiver in place until such time that the intercarrier compensation proceeding is concluded. Such a result would simply maintain the *status quo* as established by the *Order* and would be consistent with the Commission's determination that the waiver duration be limited to that of the "accompanying rulemaking proceeding."<sup>16</sup>

For the foregoing reasons, the Commission should modify its rules such that rural LECs may assess no more than five SLCs for loops used to provide derived channel T-1 services without foregoing recovery of associated SLC revenues from ICLS. Should the Commission decide that a rule change should not be contemplated until after the Commission first reforms the intercarrier compensation regime, the Commission

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<sup>13</sup> AT&T at 9.

<sup>14</sup> SBC at 5.

<sup>15</sup> See Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd. 9610 (2001).

<sup>16</sup> *Order*, ¶ 45.

nevertheless should maintain the partial waiver of rule 69.104(q) it granted in July 2004, and continue to permit rural LECs to charge no more than 5 SLCs for derived channel T-1 service without foregoing recovery of the associated SLC revenues from ICLS.

Respectfully submitted,

**NATIONAL EXCHANGE CARRIER  
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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of NECA's Reply Comments was served this 13<sup>th</sup> day of December 2004, by electronic filing or first class mail, to the persons listed below.

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